

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

PENNY RACE-NIMMONS

Claimant

VS.

KONZA CONSTRUCTION COMPANY, INC.

Respondent

AND

BUILDERS ASSOCIATION

SELF-INSURANCE FUND

Insurance Carrier

Docket No. 190,747

ORDER

Respondent appeals from the May 31, 1996, Award entered by Special Administrative Law Judge Douglas F. Martin. The Appeals Board heard oral argument on November 7, 1996.

APPEARANCES

Claimant appeared by and through her attorney, Jeff K. Cooper of Topeka, Kansas. Respondent and its insurance carrier appeared by and through their attorney, Wade A. Dorothy of Lenexa, Kansas. There were no other appearances.

RECORD AND STIPULATIONS

The record and stipulations as specifically set forth in the Award of the Special Administrative Law Judge are herein adopted by the Appeals Board.

ISSUES

- (1) What is the nature and extent of claimant's injury and/or disability?
- (2) What, if any, is the compensation due claimant for this injury?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire evidentiary record, including the stipulations of the parties, the Appeals Board makes the following findings of fact and conclusions of law:

The Award of the Special Administrative Law Judge sets out findings of fact and conclusions of law in some detail and it is not necessary to repeat the same herein. The findings and conclusions enumerated in the Award of the Special Administrative Law Judge are both accurate and appropriate and the Appeals Board adopts the same as its own findings and conclusions as if specifically set forth herein as to the issues raised.

The Special Administrative Law Judge in finding claimant entitled to a 45 percent permanent partial general body work disability considered the medical evidence of William D. Kossow, M.D., Donald L. Morgan, D.O., and C. Reiff Brown, M.D., all of whom considered the loss of ability to perform tasks previously performed by claimant. The Special Administrative Law Judge also compared claimant's average weekly wage at the time of the injury to the wages claimant earned subsequent to her termination of employment with respondent. The Appeals Board adopts the logic of the Special Administrative Law Judge and affirms the Award.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Special Administrative Law Judge Douglas F. Martin dated May 31, 1996, should be, and is fully affirmed and the claimant is granted an award against respondent and its insurance carrier for an injury on June 8, 1994, and based upon an average weekly wage of \$381.77 for 45% permanent partial general body disability. Claimant is entitled to 14 weeks temporary total disability compensation at the rate of \$254.53 per week totaling \$3,563.42 followed by 186.75 weeks permanent partial disability at the rate of \$254.53 per week totaling \$47,533.48 for a total award of \$51,096.90.

As of November 7, 1996, there would be due and owing to claimant 14 weeks temporary total disability compensation at the rate of \$254.53 per week in the amount of \$3,563.42 followed by 112.14 weeks permanent partial disability at the rate of \$254.53 per week in the sum of \$28,542.99 for a total due and owing of \$32,106.41 which is ordered paid in one lump sum minus amounts previously paid. Thereafter, claimant is entitled to 74.61 weeks permanent partial disability at the rate of \$254.53 per week in the amount of \$18,990.48 until fully paid or until further order of the Director.

The fees necessary to defray the expenses of the administration of the Workers Compensation Act are hereby assessed against the respondent and its insurance carrier to be paid as follows:

Owens, Brake, Cowan and Associates	
Deposition of Donald L. Morgan, D.O.	\$ 97.87
Deposition of John A. Twygg	\$117.82
Deposition of William D. Kossow, M.D.	\$181.45

Underwood & Shane	
Deposition of C. Reiff Brown, M.D.	\$229.50

Metropolitan Court Reporters, Inc.	
Deposition of Michael Dreiling	\$109.10

Nora Lyon & Associates	
Transcript of the Regular Hearing on August 24, 1995	\$142.20

Special Administrative Law Judge Fee \$150.00

IT IS SO ORDERED.

Dated this ____ day of November 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Jeff K. Cooper, Topeka, KS
 Wade A. Dorothy, Lenexa, KS
 Douglas F. Martin, Special Administrative Law Judge
 Bryce Benedict, Administrative Law Judge
 Philip S. Harness, Director